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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,778	12/20/2001	Paul J. Klock	W0543/7052 KDW	9598

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EXAMINER

SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,778

Applicant(s) **HC**

KLOCK ET AL.

Examiner

James N Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites, "wherein the stopper includes a flap having a portion of the flap attached to the handle, wherein a remaining portion of the flap removably fills the opening." It is unclear how the remaining portion of the flap fills the opening if the stopper already closes the opening and the remaining portion of the flap has been distinguished from the stopper.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-35 are rejected under 35 U.S.C. 102(b) as being disclosed by applicant more than one year before the filing date of the present application.

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Examiner cites CONRINGWARE FRENCH WHITE Cookware, Corningware Housewares Catalog, 1999, pg. 1-4 (IDS Cite No. BJ) as publishing and/or offering for sale the present application. Examiner notes the cited document appears to disclose the present application on page 4, section "CORNINGWARE FRENCH WHITE NEXT GENERATION OPEN STOCK." Examiner notes strong similarity between figure 1 of the present application and Item Number 1039816.

5. Claims 1-3 and 8-16 rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al. 228.

Morgan et al. 228 disclose a cover comprising a body portion 14 substantially surrounded by an outer edge, the body portion having an opening 38 therein; and a stopper 66 movable between an open position and a closed position, the stopper adapted to close the opening when in the closed position; wherein the stopper causes a substantially air-tight seal between the cover and a container when in the closed position, and allows the cover to be removed from the container when the stopper is in the open position by releasing the air-tight seal, wherein the stopper includes a flap 56 having a portion of the flap removably secured to the body portion of the cover, wherein a remaining portion of the flap removably fills the opening, the body portion further comprising an upper surface 18, a lower surface 24 having an outer periphery adjacent the outer edge, and a sealing ring (inner flange in fig. 3) mounted on a substantial portion of the outer periphery of the lower surface of the body portion, wherein the sealing ring in combination with the stopper effects the air-tight seal between the cover and the container when the opening is closed by the flap, wherein the sealing ring is mounted on an entire outer periphery of the lower surface, further comprising a handle 72 disposed in the body portion, further comprising

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an indentation 26 in the body portion substantially surrounding the handle, wherein the handle is set within the indentation and a top surface of the handle is substantially flush with an upper surface of the body portion of the cover, wherein the handle is removable from the body portion, wherein the stopper includes a flap having a portion of the flap attached to the handle, wherein a remaining portion of the flap removably fills the opening, further comprising an indentation in the body portion substantially surrounding the handle and stopper, wherein the handle and stopper are set within the indentation and top surfaces of the handle and the stopper are substantially flush with an upper surface of the body portion of the cover, wherein the handle and stopper are removable from the body portion.

6. Claims 17-21, 23-25 and 27-30 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogino 732.

Ogino 732 discloses a container comprising a cover having a body portion substantially surrounded by an outer edge, and a container portion including a sidewall attached to a base, the sidewall having an inner surface, wherein the outer edge of the cover is adapted to fit adjacent a portion of the inner surface of the sidewall of the containing portion, the body portion further comprising a top surface, a bottom surface having an outer periphery adjacent the outer edge, and a sealing ring mounted on a substantial portion of the outer periphery of the bottom surface of the body portion, wherein the sealing ring effects an air-tight seal between the cover and the containing portion, further comprising a ridge provided on the sidewall of the containing portion, wherein the sealing ring is adapted to engage the ridge, further comprising a flange attached to the outer periphery of the bottom surface, wherein the flange receives the sealing ring, wherein the sealing ring is removable from the flange, wherein the sealing ring is mounted on the entire

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outer periphery of the bottom surface, further comprising an arm extending downwardly from the outer periphery of the cover, and a flange member extending substantially perpendicular from the arm, the sealing ring removably engaged with at least a portion of the flange member, the flange further comprising a second flange member extending from the arm and provided substantially parallel to the first flange member forming a groove between the flange members, wherein the groove removably receives at least a portion of the sealing ring, further comprising a handle disposed in the top surface of the body portion, further comprising an indentation in the body portion substantially surrounding the handle, wherein the handle is set within the indentation and a top surface of the handle is substantially flush with the top surface of the body portion of the cover, an opening defined by the body portion of the cover, and a stopper removable between an open position and a closed position, the stopper adapted to close the opening in the closed position, and expose the opening in the open position, wherein the stopper causes a substantially air-tight seal between the cover and the containing portion when in the closed position, and allows the cover to be removed from the container when the stopper is in the open position by releasing the air-tight seal.

7. Claim 35 is rejected under 35 U.S.C. 102(e) as being anticipated by Ogino 732.

Ogino 732 discloses a container comprising a cover having a body portion substantially surrounded by an outer edge, the body portion having an opening 26 therein, a stopper 34 and a handle 38 combination provided on the body portion, the stopper movable between an open position and a closed position, the stopper adapted to close the opening when in the closed position, and a containing portion including a sidewall 6 attached to a base 8, the sidewall having an inner surface, wherein the outer edge of the cover is adapted to fit a portion 10 of the inner

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surface of the sidewall of the containing portion and the stopper is adapted to cause an air-tight seal between the cover and the containing portion when in the closed position, and allows the cover to be removed from the containing portion when the stopper is in the open position by releasing the air-tight seal.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. 228, as applied to claims 1-3 and 8-16 above, and in view of Ogino 732.

Morgan et al. 228 do not disclose a sealing means comprising a flange on the outer periphery of the lower surface having two parallel arms removably holding a sealing ring.

Ogino 732 discloses a sealing means comprising a flange on the outer periphery of the lower surface having two parallel arms removably holding a sealing ring.

It would have been obvious to one having ordinary skill in the art to modify the lid of Morgan et al. 228 with the flange and sealing ring of Ogino 732 to obtain the benefit of having an improved air-tight seal between the lid and container.

10. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. 228, as applied to claims 1-3 and 8-16 above, in view of Ogino 732 as applied to claims 1-6 and 8-16 above, and in further view of Poslinski et al. 152.

Morgan et al. 228 do not disclose the sealing ring being mounted on the outer periphery of the lower surface using adhesive.

Poslinski et al. 152 disclose a sealing ring being held in place through bonding (see col. 2, lines 66-67 where Poslinski et al. cite bonding as a method of fixing the sealing ring to the container lid).

It would have been obvious to one having ordinary skill in the art to modify the sealing ring of Morgan et al. 228 to bond it to the container lid so provide a stronger seal between the sealing ring to the container lid.

11. Claims 17-30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogino 732 as applied to claims 17-21, 23-25 and 27-30 and 34 and in view of Poslinski et al. 152.

Ogino 732 does not disclose the sealing ring being held in place by an adhesive.

Poslinski et al. 152 disclose a sealing ring being held in place through bonding (see col. 2, lines 66-67 where Poslinski et al. cite bonding as a method of fixing the sealing ring to the container lid).

It would have been obvious to one having ordinary skill in the art to modify the sealing ring of Ogino 732 to bond it to the container lid so provide a stronger seal between the sealing ring to the container lid.

12. Claims 17 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogino 732 in view of Morgan et al. 228.



Ogino 732 does not disclose the stopper including a flap having a portion of the flap removably secured to the body portion of the cover wherein the remaining portion of the flap removably fills the opening.

Morgan et al. 228 disclose a stopper including a flap having a portion of the flap removably secured to the body portion of the cover wherein the remaining portion of the flap removably fills the opening.

It would have been obvious to one having ordinary skill in the art to modify the stopper of Ogino 732 to include the flap of Morgain et al. 228 to obtain the benefit of easier hand gripping for removal of the cover from the container.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,053,474 discloses a vent valve that serves to seal a vent hole in a microwaveable container while being anchored to the container lid and also includes a handle/finger tab flap.

US 4,177,933 discloses a container and closure wherein the rim of the closure engages a shoulder in the inner wall of the neck portion of the container.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information

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without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 308-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N Smalley whose telephone number is (703) 605-4670. The examiner can normally be reached on M-Th 8-5:30, Alternate Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

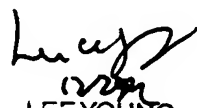
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
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